



A BILL FOR AN ORDINANCE

RELATING TO LOBBYISTS.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Findings and purpose.

The purpose of this ordinance is to transfer from the council to the ethics commission the duties and obligations regarding the registration and restriction of lobbying activities. Under Chapter 4, Article 1, Revised Ordinances of Honolulu 1990 (ROH), registration and restriction of lobbying is delegated to the city clerk and the council. However, Article XIV of the Constitution of the State of Hawaii mandates that the ethics commission of each county shall administer the ethics code for the respective county and that each ethics code shall include provisions on lobbying registration and restriction.

This ordinance will ensure that the city ordinances regarding the regulation of lobbying activities are consistent with the requirements of Article XIV of the Constitution of the State of Hawaii.

This ordinance also makes conforming amendments to Section 1-17.2, ROH, regarding the definition of an "individual engaged in business or other activity with the city".

SECTION 2. Article 1 of Chapter 4, Revised Ordinances of Honolulu 1990, is repealed.

SECTION 3. Chapter 3, Revised Ordinances of Honolulu 1990, is amended by adding a new article to be appropriately designated by the revisor of ordinances and to read as follows:

"Article __. Registration of Lobbyists

Sec. 3-__1 Declaration of intent.

The council declares that the operation of responsible democratic government requires that the fullest opportunity be afforded to the people to petition their government for the redress of grievances and to express freely to individual members of the council, to committees of the council, and to officers of the executive branch their opinions on pending legislation and rules involved in the city's policymaking process. However, the preservation and maintenance of the integrity of the policymaking process require the identification in certain instances of persons and groups who engage in efforts to



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persuade members of the city council or officers of the executive branch to take specific action. It is the purpose of this article to require registration of lobbyists in order to make available to the council, the executive branch, and the public information relating to the activities of such persons and groups.

Sec. 3-__2 Definitions.

As used in this article, unless the context requires otherwise:

"Agency" means any "agency" as defined in Section 13-101 of the Revised Charter.

"Contribution" means a gift, subscription, loan, advance or deposit of money or anything of value and includes a contract, promise or agreement, whether or not legally enforceable, to make a contribution.

"Lobbying" means certain activities of a person who is included in the definition of a "lobbyist" as defined in this section and not specifically excluded under Section 3-__3(e). "Lobbying" shall be deemed to include the representation, by any person, whether or not compensated, of an association, corporation or organization that accepts membership dues or contributions with the understanding that a portion of the funds so received will be used to influence the policymaking process of the City and County of Honolulu.

"Lobbyist" means any person who engages oneself for pay or other consideration for the purpose of influencing, directly or indirectly, and whether by such person or through any agent or employee or other person in any manner whatsoever, the policymaking process of the City and County of Honolulu. A person who accepts membership dues or contributions made, or a fee or salary paid, with the understanding that the person accepting the same intends to devote a portion of the funds contributed or the time for which the salary is paid to lobbying activities shall be deemed to have "engaged oneself" to conduct such activities.

"Officer or employee of the City and County of Honolulu" means any "officer" or "employee" as defined in Section 13-101 of the Revised Charter.

"Person" means an individual, partnership, committee, association, corporation, and any other organization or group of individuals.

"The policymaking process" means any action taken by an officer or employee of the City and County of Honolulu with respect to any bill, resolution or other measure in the



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city council, or with respect to any rule, regulation, standard, rate or other regulatory enactment of any city agency.

Sec. 3-__3 Registration and reporting.

- (a) Each lobbyist shall, not later than five days after engaging himself or herself to conduct lobbying activities or receiving contributions, membership dues or a fee or salary as set forth in Section 3-__2, file a registration form with the ethics commission.
- (b) Such registration form shall be developed by the ethics commission and shall include the registrant's full name and address; place of business; the full name and complete address of each person, whether or not an employee, who will lobby on behalf of the registrant; the full name of each person by whom the registrant is retained or employed or on whose behalf the registrant lobbies; duration of such person's employment; and a description of the matters on which the registrant expects to lobby. If the registrant lobbies or purports to lobby on behalf of members, such registration form shall include a statement of the number of members, and a full and complete description of the methods by which the members develop and make decisions about positions on policy. In addition thereto, each registration form shall be accompanied by a written authorization from each person (as defined in Section 3-__2) by whom the registrant is employed or authorized to lobby. In a situation where the "person" is other than a natural person, i.e., a corporation, association, partnership or any organization consisting of groups of individuals, written authorization shall be executed by the president or an officer delegated such power by the president or the organization's board of directors.
- (c) Each lobbyist shall file with the ethics commission an annual report concerning the lobbyist's activities during the preceding calendar year ending December 31st by January 10th of each year, or, if the aforesaid date falls on a Saturday, Sunday or holiday, the next business day, as long as such lobbyist continues to engage in the activity described in Section 3-__2. The annual report form shall be developed by the ethics commission and shall include, in addition to an up-to-date statement of the information required to be supplied in the registration form, such information for the preceding calendar year concerning (1) contributions, membership fees and other receipts relating to lobbying activities of the lobbyist, (2) amounts expended for lobbying by the lobbyist, and (3) each decision of the policymaking process the reporting lobbyist sought to influence, as the ethics commission deems necessary to effectuate the purposes of this article.



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- (d) Each lobbyist shall file a supplementary registration form with the ethics commission no later than 10 days after any change in the information supplied in the lobbyist's last registration form under subsection (b). Such supplementary registration form shall include a complete description of the information that has changed.
- (e) The registration and reporting requirements set forth herein shall not apply to:
- (1) Any person who merely appears at a public hearing before the council, its committees or city agencies to express such person's opinion on pending legislation and/or rules and regulations involved in the city's policymaking process;
 - (2) Any federal, state or county official or employee acting in such person's official capacity;
 - (3) Any elected public official acting in such person's official capacity;
 - (4) Any newspaper or other regularly published periodical, radio or television station (including any individual who owns, publishes or is employed by a newspaper or periodical or radio or television station) which in the ordinary course of business publishes news items, editorials or other comments, or paid advertisements, which directly or indirectly urge the taking of legislative or executive action, if the newspaper, periodical, radio or television station or individual engages in no further or other activities in connection with influencing decisions in the policymaking process of the City and County of Honolulu;
 - (5) Any person representing a bona fide church solely for the purpose of protecting the public right to practice the doctrines of the church;
 - (6) Any unpaid volunteer representing a nonprofit organization, association or corporation; provided, that the organization, association or corporation:
 - (A) Is registered in accordance with the provisions of this section, and
 - (B) Files a written authorization with the ethics commission specifically designating such person to represent it;

and such persons may engage in the activities described in this subsection without being holders of a certificate of registration.



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Sec. 3-__4 Registration and report forms to conform to law and truth.

Each registration and report form required to be filed under this article shall conform to law and truth and shall be signed and certified under oath as true and correct by the registrant, or, if the registrant is a person other than an individual, by an appropriate officer of such registrant.

Sec. 3-__5 Certificate of registration.

- (a) Within 10 working days after receipt of a registration form completed as provided in Section 3-__3(b) and certified under oath as true and correct as provided in Section 3-__4, the ethics commission shall either issue a certificate of registration to the registrant or notify the registrant that the form lacks relevant information or is improperly filled out, and no certificate of registration will be issued unless the omission is rectified or the form properly filled out.
- (b) Within 10 working days after receipt of the annual report form prescribed by Section 3-__3(c), the ethics commission shall renew the registrant's certificate of registration or shall, upon notice to the registrant, suspend the certificate until such time as the registrant's annual report form has been brought into compliance with the requirements of this article.
- (c) The initial certificate and any renewed certificate shall remain in force until 10 working days following the next succeeding annual reporting date as set forth in Section 3-__3(c), except that a certificate may be suspended or revoked as set forth in subsections (d) and (e).
- (d) If, either prior or subsequent to the issuance or renewal of a certificate of registration, the ethics commission obtains information leading it to believe that the registration or report form under consideration or on which issuance or renewal of a certificate has been based contains a material misstatement of fact, the ethics commission, after notice and a hearing, may suspend or revoke, for a period of up to one year following hearing on the misstatement, any effective certificate and may decline to issue or renew a certificate for a period of up to one year following the hearing. In exercising its discretion with respect to suspending or revoking or declining to issue or renew certificates of registration, the ethics commission shall grant a hearing to the aggrieved registrant at which it shall consider the nature of the material misstatement of fact, whether it was made intentionally or inadvertently, and any other circumstances surrounding the making of the material misstatement of fact.



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- (e) In the event that, subsequent to filing of the registration form and issuance of the certificate, the ethics commission obtains information leading it to believe that a change in the information set forth in the registration form occurred and was not reflected in a supplementary registration form filed as required by Section 3-___.3(d), the ethics commission may, upon notice to the registrant, suspend the certificate of registration until a supplementary report containing the appropriate information is on file.

Sec. 3-___.6 Prohibition.

No person who is not the holder of a current certificate of registration issued by the ethics commission under this article shall engage in lobbying activities.

Sec. 3-___.7 Additional duties of the ethics commission.

In addition to other duties prescribed by law, it shall be the duty of the ethics commission:

- (a) To prescribe registration and report forms required to be filed under this article, and to furnish and make available such forms to city agencies affected by, and persons required to register and report under, this article;
- (b) To accept and file any information voluntarily supplied that exceeds the requirements of this article;
- (c) To make registration and report forms filed with it available for public inspection and copying during regular office hours; a reasonable charge for reproducing copies may be assessed for the reimbursement of costs thereof;
- (d) To preserve such registration and report forms for a period of five years from the date of receipt;
- (e) To report suspected violations of law to the appropriate law enforcement authorities;
- (f) To establish procedures for the orderly processing of lobbyist registration; and
- (g) To adopt rules, if needed, in accordance with HRS Chapter 91, for the implementation, administration and enforcement of this article.



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Sec. 3-___.8 Penalties.

Except as otherwise provided in this article, the ethics commission may suspend or revoke the certificate of registration of a lobbyist who has been found to have violated any provision of this article. No certificate shall be suspended or revoked except after a notice has been issued to the violator and a hearing held. The suspension or revocation shall not exceed one year from the date of the hearing.

Sec. 3-___.9 Severability.

If any provision of this article, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of this article and the application of such provisions to other persons and circumstances shall not be affected thereby."

SECTION 4. Section 1-17.2, Revised Ordinances of Honolulu 1990, is amended by amending the definition of "individual engaged in business or other activity within the city" to read as follows:

""Individual engaged in business or other activity with the city" means an individual who:

- (1) Is performing services as an independent contractor with the city;
- (2) Is seeking an independent contract with the city;
- (3) Is seeking to sell or has sold products or services to the city;
- (4) Is applying for or has received a permit or other ministerial or discretionary approval from the city;
- (5) Is appealing or has appealed a decision by the city to a city department, board, officer, or employee;
- (6) Is applying for or participating in a city program available to the general public or a class of the general public;
- (7) Is engaged in lobbying, as defined under Section [4-1.2] 3-___.2;
- (8) Is engaged in influencing the city's policy making process, as defined under Section [4-1.2] 3-___.2, but is not registered as a lobbyist; or



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(9) Is working as a journalist for a news medium."

SECTION 5. Transition Provisions. Upon the effective date of this ordinance, all records held by the city clerk related to the registration of lobbyists, including lobbyists' registration forms, certificates of registration, renewed certificates, supplementary registration forms, annual reports, and any other forms relating to lobbyist registration, shall be transferred to and assumed by the ethics commission. Any valid certificate of registration, renewed certificate, supplementary registration form, annual report, or other form relating to the registration of lobbyists, on file with the city clerk's office on the effective date of this ordinance, shall continue to be valid and in effect for the period and under the conditions provided for under ROH Sections 3-___.1 through 3-___.9, upon the transfer of the records to the ethics commission.

SECTION 6. In SECTION 4 of this ordinance, material to be repealed is bracketed and new material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the revisor of ordinances need not include the brackets, the bracketed material or the underscoring.



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE 05 - 033

BILL 52 (2005), CD1

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SECTION 7. This ordinance shall take effect 30 days after its approval.

INTRODUCED BY:

Donovan Dela Cruz

DATE OF INTRODUCTION:

August 12, 2005

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Diane T. Kawachi
Deputy Corporation Counsel

APPROVED this 21st day of November, 2005.

Mufi Hannemann
MUFU HANNEMANN, Mayor
City and County of Honolulu

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

ORDINANCE **05 - 033**

BILL **52 (2005)**

Introduced: 8/12/05 By: DONOVAN DELA CRUZ

Committee: EMLA


Title: A BILL FOR AN ORDINANCE RELATING TO LOBBYISTS.

Links: Bill 52 (2005)
Bill 52 (2005), CD1

Council	9/28/05	Bill passed first reading and referred to Committee on Executive Matters and Legal Affairs. Apo Y Cachola Y Dela Cruz Y Djou Y Garcia Y Kobayashi Y Marshall Y Okino Y Tam Y
EMLA	10/6/05	CR-463 - Bill reported out of committee for passage on second reading and scheduling of a public hearing as amended in CD1 form.
Publish	10/8/05	Public hearing notice published in the Honolulu Star-Bulletin.
Council/Public Hearing	10/19/05	Bill passed second reading, as amended (CD1), CR-463 adopted, public hearing closed and referred to Executive Matters and Legal Affairs Committee. Apo Y Cachola Y Dela Cruz Y Djou Y Garcia Y Kobayashi Y Marshall Y Okino Y Tam Y
Publish	10/29/05	Second reading notice published in the Honolulu Star-Bulletin.
EMLA	10/27/05	CR-510 - Bill 52, CD1, reported out of committee for passage on third reading.
Council	11/9/05	Bill 52, CD1, passed third reading and CR-510 adopted. Apo Y Cachola Y Dela Cruz Y Djou Y Garcia Y Kobayashi Y Marshall Y Okino Y Tam Y

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this BILL.


DENISE C. DE COSTA, CITY CLERK


DONOVAN M. DELA CRUZ, CHAIR AND PRESIDING OFFICER

05 - 033